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**United States Court of Appeals  
For the First Circuit**

No. 04-1148  
DC No. 03-40271

JAMES W. BARTON,

Petitioner, Appellant,

v.

STEVEN J. O'BRIEN, SUPERINTENDENT OF N.C.C.I. GARDNER,

Respondent, Appellee.

Before

Torruella, Circuit Judge,  
Stahl, Senior Circuit Judge,  
and Lynch, Circuit Judge.

JUDGMENT


Entered: February 9, 2004

Appellant's "Motion for Interlocutory Appeal," whether construed as an appeal or a petition for writ of mandamus, is denied. Proceedings have not been unduly prolonged below, and petitioner has relied on a version of Rule 81(a)(2) which was amended in 2002 and is no longer in effect.

**Certified and Issued as Mandate  
under Fed. R. App. P. 41.**

By the Court:

Richard Cushing Donovan, Clerk

  
Deputy Clerk

Richard Cushing Donovan, Clerk.

Date: MAR 30 2004

[CC: Messrs. Barton and Lieber]